GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services - Commercial Taxes Department - Sri G.Venkateswarlu, former Joint Commissioner, O/o. the CCT - Allegation of irregularities in approving the proposals for refund of taxes in respect of M/s.Kirloskar Brothers Limited, Hyderabad- Departmental proceedings under Rule 20 of A.P.C.S (CC&A) Rules, 1991 - Articles of Charges - Issued.

REVENUE (VIG.II) DEPARTMENT

G.O.Rt.No.603 **Dated:28.07.2020.**

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O R D E R : -

It is proposed to hold an Inquiry against Sri G.Venkateswarlu, former Joint Commissioner, O/o. the Commissioner of Commercial Tax, Presently working as Commissioner, O/o. the Chief Commissioner (State Tax), Andhra Pradesh, Vijayawada, in accordance with the procedure laid down in Rule-20 of the Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991.

2. The substance of the imputations of misconduct or mis-behaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of article of charge (Annexure-I). A statement of imputations of misconduct or mis-behaviour in support of the article is also enclosed in Annexure-II. A list of documents by which, and a list of witnesses by whom the articles of charges are proposed to be substantiated are enclosed in Annexure-III and IV.

3. Sri G.Venkateswarlu, former Joint Commissioner, O/o. the Commissioner of Commercial Taxes, Presently working as Commissioner, O/o. the Chief Commissioner (State Tax), Andhra Pradesh, Vijayawada is directed to submit his explanation within 10 days from the date of receipt of this order.

4. Sri G.Venkateswarlu, former Joint Commissioner, O/o. the Commissioner of Commercial Taxes, Presently working as Commissioner, O/o. the Chief Commissioner (State Tax), Andhra Pradesh, Vijayawada is informed that an inquiry will be held only in respect of those articles of charges which are not admitted. He should, therefore, specifically admit or deny each article of charge.

5. Sri G.Venkateswarlu, former Joint Commissioner, O/o. the Commissioner of Commercial Tax, Presently working as Commissioner, O/o. the Chief Commissioner (State Tax), Andhra Pradesh, Vijayawada is further informed that if he does not submit his written statement of defence on or before the time specified in para-3 above, further action will be processed based on the material available.

6. Attention of Sri G.Venkateswarlu, former Joint Commissioner, O/o. the Commissioner of Commercial Taxes, Presently working as Commissioner, O/o. the Chief Commissioner (State Tax), Andhra Pradesh, Vijayawada is invited to Rule-24 of Andhra Pradesh Civil Services (Conduct) Rules, 1964 under which no Government Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these Proceedings it will be presumed that Sri

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G.Venkateswarlu, former Joint Commissioner, O/o. the Commissioner of Commercial Taxes, Presently working as Commissioner, O/o. the Chief Commissioner (State Tax), Andhra Pradesh, Vijayawada is aware of such representation and that it has been made at his instance and action will be taken against him for violation of Rule-20 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

RAJAT BHARGAVA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
Sri G.Venkateswarlu, former Joint Commissioner, O/o. the CCT, Presently working as Commissioner, O/o. the CC(ST), Vijayawada, Govt. of A.P. (**Through** the Chief Commissioner (State Tax), Vijayawada, Govt. of A.P.)
The Chief Commissioner of State Tax, Andhra Pradesh, Vijayawada (with a request to cause service of the Charge Memo to the individual and send copy to Government.)

Copy to:-
The Commissioner of Commercial Taxes, Telangana, Hyderabad.
The Director General, Vigilance & Enforcement, Vijayawada.
The Secretary to Vigilance Commissioner, Telangana State Vigilance Commission, Hyderabad.
The Secretary to Vigilance Commissioner, APVC, Velagapudi, Vijayawada, A.P.
The Revenue (Vig.II) Department, Telangana Secretariat, Hyderabad.
SF/SC.

//FORWARDED:: BY ORDER//

SECTION OFFICER

ANNEXURE-I

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST SRI G. VENKATESWARLU, FORMER JOINT COMMISSIONER (CT) O/o COMMISSIONER (CT) HYDERABAD PRESENTLY WORKING AS COMMISSIONER (ST) O/o. CHIEF COMMISSIONER OF STATE TAX, ANDHRA PRADESH, VIJAYAWADA.

ARTICLE OF CHARGE:

Sri G.Venkateswarlu, while working as Joint Commissioner(CT), O/o Commissioner of Commercial Taxes, Hyderabad, committed grave irregularities in approving and granting of Refund of taxes to a tune of Rs.3,49,63,199/- for the year 2008-09 in respect of M/s Kirloskar Brothers Ltd., Secunderabad, in violation of the existing provisions of the AP VAT Act. He while approving and granting the case did not consider the provisions of the A.P. VAT Act and Rules i.e., Sec. 22(3)(A), Sec.57, Rule 18 (3)(b) and also G.O. Ms. No.94, Irrigation and CAD (PWCOD) Department dt.01-07-2003, CCT's circular instructions issued in CCT's Ref.No.AIII (1)/ 150/ 2012, dt.26-03-2013 and CCT Ref. No. BVI(1)/76/2007, dt.04-06-2008. Thus, he failed to exercise due diligence in approving the refund of Tax to a tune of Rs.3,49,63,199/-. It is a clear case of dereliction of duty, willful negligence and criminal misconduct on the part of the said officer.

Sri G. Venkateswarlu, former Joint Commissioner (Commercial Taxes) O/o. Commissioner (CT) Hyderabad presently working as Commissioner (ST) O/o. Chief Commissioner(ST), Andhra Pradesh, Vijayawada, by his above mentioned acts has exhibited indiscipline lack of integrity and devotion to duty, unbecoming of a Government Servant and thereby contravened Rule 3 (1) (2) & (4) of A.P.C.S. (conduct) Rules, 1964.

RAJAT BHARGAVA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

//FORWARDED:: BY ORDER//

SECTION OFFICER

ANNEXURE – II

STATEMENT OF IMPUTATION OF MISCONDUCT IN SUPPORT OF ARTICLE OF CHARGE FRAMED AGAINST SRI G. VENKATESWARLU, FORMER JOINT COMMISSIONER (CT) O/o. COMMISSIONER (CT) HYDERABAD PRESENTLY WORKING AS COMMISSIONER (ST) O/o. CHIEF COMMISSIONER OF STATE TAX, ANDHRA PRADESH, VIJAYAWADA.

On the allegations of illegal approving refund of taxes in respect of M/s. Kirloskar Brothers Limited, Secunderabad, the Vigilance & Enforcement Department has conducted an enquiry.

It reveals that the amount of tax collected at source (TCS), which was added separately over and above the consideration for the execution of work, payable by the contractee, was unlawfully refunded for the following reasons:

1. M/s. Kirloskar Brothers Limited, Secunderabad is a Government contractor and the Government being a Taxing and Collecting Authority and also being a contractee, made a provision for works contract Tax separately to the estimates while awarding works to the contractors so that such Tax which was added to the estimates is collected while making payments to the contractor. This is known as Tax collection at source (TCS) and since it is an exclusive provision for works contract awarded by the Government, necessary statutes were also inserted in the APVAT Act and Rules so that such TCS shall neither be refunded nor adjusted against the future liabilities of the contractors.

2. He stated that, in similar situation when they forfeited certain amounts in favour of the Government of A.P., the Hon'ble A.P.High Court set aside such orders in J.P. Associates case in W.P.No.35628 of 2012 and Hon'ble Sales Tax Appellate Tribunal, AP Hyderabad Bench also set aside such orders in the case of M/s Trent Ltd., Hyd. Vs. State of A.P. in T.A.No.1114 of 2007, while dealing with the case of refunds of M/s Gayathri Projects Limited, Hyderabad.

   He quoted that the Commissioner (CT) A.P. also forfeited certain amounts from M/s. Sarala Project Works Private Limited in favour of the Government of A.P. and the collection of the disputed sum is already stayed by the Hon'ble A.P.High Court in SPLAMP NO.5 of 2014. The main appeal is pending in Hon'ble A.P.High Court.

   The above version is not related to the instant case.

3. Sri G.Venkateswarlu has claimed that the matter is sub-judice, but before pronouncement of judgment by the Hon'ble A.P.High Court, he has jumped to the conclusion that the forfeitures of any amounts which are loaded in the work contract price towards VAT from the contractor's who executed works of Government of A.P. is legally impossible as on that date. It clearly shows that he being a Government servant failed to protect the interest of the Government and showed criminal misconduct and caused wrongful loss to the Government and wrongful gain to the private persons.

   He has willfully approved illegal refunds in favour of work contractors and thereby shown criminal misconduct and caused wrongful loss to the Government and wrongful gain to the private persons.

   Thus, by the, above mentioned Acts, Sri. G. Venkateswarlu, former Joint Commissioner (CT), Hyderabad, presently working as Commissioner (ST), O/o Chief Commissioner (ST), Andhra Pradesh,

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Vijayawada, has showed gross negligence while doing their official duty caused loss of revenue to the State exchequer, and in not obeying the Government orders and as well as instructions of the higher authorities and contravened Rule 3 of the A.P.C.S (Conduct) Rules, 1964.

RAJAT BHARGAVA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

//FORWARDED:: BY ORDER//

SECTION OFFICER

ANNEXURE - III

LIST OF DOCUMENTS BY WHICH ARTICLE OF CHARGE FRAMED AGAINST SRI G. VENKATESWARLU, FORMER JOINT COMMISSIONER (CT) O/o. COMMISSIONER (CT), HYDERABAD PRESENTLY WORKING AS COMMISSIONER (ST) O/o. CHIEF COMMISSIONER OF STATE TAX, ANDHRA PRADESH, VIJAYAWADA, ARE PROPOSED TO BE SUSTAINED:

1) Vigilance Report No. 89/(C.No.177/V&E/R1/2014), Dt.19.5.2014
2) Copy of G.O.Ms.No.11, dt.29-07-2005.
3) Copy of G.O. No. 94, dt. 01-07-2003.
4) Copy of Circular of Commissioner (CT) in ref.No. AIII(1)/150/2012, dt. 26-03-2013.
5) Copy of CCT's Ref. No. BV(I)/76/2007, dt. 04-06-2008.

RAJAT BHARGAVA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

//FORWARDED:: BY ORDER//

SECTION OFFICER

ANNEXURE – IV

LIST OF WITNESSES BY WHOM ARTICLE OF CHARGE FRAMED AGAINST SRI G. VENKATESWARLU, FORMER JOINT COMMISSIONER (CT) O/o. COMMISSIONER (CT), HYDERABAD PRESENTLY WORKING AS COMMISSIONER (ST) O/o. CHIEF COMMISSIONER OF STATE TAX, ANDHRA PRADESH, VIJAYAWADA ARE PROPOSED TO BE SUSTAINED:

- NIL –

RAJAT BHARGAVA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

//FORWARDED:: BY ORDER//

SECTION OFFICER